

REMARKS

The pending Office Action addresses and rejects claims 1-4, 6-13, 15 and 16.

Amendments to the Claims

Applicants amend independent claims 1 and 13 to delete the word “substantially.” Claim 6 is amended to correspond to amended claim 1. No new matter is added. Accordingly, entry of the amendment is respectfully requested.

Rejections Pursuant to 35 U.S.C. §102(b)

Claims 1-4, 7, 8, 10 and 11 are rejected pursuant to 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,891,142 to Eggers et al. (“Eggers”), and claims 1-4, 6-8, 10, 11, 13, 15, and 16 are rejected pursuant to 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,086,586 to Hooven (“Hooven”).

As noted above, independent claims 1 and 13 each recite a first member having a first tissue-contacting conductive element with a circular cross-sectional shape, and a second member having a second tissue-contacting conductive element with a circular cross-sectional shape. Neither Eggers nor Hooven teach or even suggest tissue-contacting conductive elements that have a *circular* cross-sectional shape. As shown in Figure 3 of Eggers, the conductive elements (62, 64) are each semi-circular and have a *planar* side for grasping tissue. Likewise, as shown in Figure 5 of Hooven, the conductive elements (42, 44, 46, 48) each have a circular portion with a *planar* side. The conductive elements of Eggers and Hooven cannot be considered to be circular, as a circle does not include planar sides.

Claims 1 and 13 further recite that the second member include a distal tissue-piercing tip. The Examiner asserts that the rounded tips of Hooven and Eggers can be penetrated through tissue. This is incorrect. In order to form a distal *tissue-piercing* tip, the tip must be configured to *pierce* through tissue. A rounded tip cannot pierce through tissue.

Claims 1 and 13, as well as the claims that depend therefrom, therefore distinguish over Eggers and Hooven and represent allowable subject matter.

Rejections Pursuant to 35 U.S.C. §103(a)


Claim 9 is rejected pursuant to 35 U.S.C. §103(a) as being obvious over Hooven in view of U.S. Patent No. 6,610,005 B1 to Swanson et al. ("Swanson"), and claim 12 is rejected pursuant to 35 U.S.C. §103(a) as being obvious over Hooven in view of U.S. Patent No. 6,511,480 B1 to Tetzlaff et al. ("Tetzlaff"). Swanson and Tetzlaff were cited in light of various discrete dependent claim limitations of claims 9 and 12. Clearly, these references, taken alone or in any combination, do not cure the above-discussed deficiencies of either Eggers or Hooven.

Conclusion

Applicants submit that all pending claims are now in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicants if such communication is deemed to expedite prosecution of this application.

Respectfully submitted,

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